Amendments to the Drawings:

The attached sheets of drawings include changes to Figures 1-4. These attached sheets replace the original sheets including Figures 1-4.

Attachment: Four (4) Replacement Sheets (Figures 1-4)

REMARKS

Claims 1-26 are pending in the application. Claims 1, 5, 6, 10, and 13 have been amended, and claims 17-26 are new. No new matter has been added.

In the non-final Office Action mailed October 20, 2008, the Examiner has rejected claims 1-7, 9, 10, and 13-16 as unpatentable under 35 U.S.C. § 103(a) over U.S. Patent No. 6,661,111 ("the '111 patent") in view of Brinkmann (DE 199 28 048 A1). Claim 11 is rejected as being unpatentable over the '111 patent and Brinkmann in view of Eriksson et al. (U.S. Patent No. 6,479,907). Claims 8 and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the '111 patent and Brinkmann in view of DuHamel (U.S. Patent No. 7,245,039) and Ordinary Skill in the Art. Claim 10 is rejected as indefinite for failing to particularly point out and distinctly claim the subject matter Applicant regards as the invention.

The Examiner has objected to the drawings based on the drawings not showing every feature of the invention specified in the claims.

Applicant respectfully disagrees with the bases for the rejections and request reconsideration and further examination of the claims.

Drawing Objections

The Examiner has objected to the drawings under 37 C.F.R. § 1.83(a) for not showing every feature of the invention specified in the claims. Figure 1 has been amended and now shows a data processing apparatus, a display device, and a control system. Figure 3 has been amended and now shows a plurality of wind power installations. Approval and entry of the figures, including substitute formal Figures 2 and 4, is respectfully requested. No new matter has been added.

The specification has been amended for consistency between the substitute figures and the specification. The paragraph beginning at page 6, line 21 in the substitute specification has been amended to now recite a control system 28. The paragraph beginning at page 8, line 10 in the substitute specification has been amended to new recite a data processing apparatus 30 of Figure 1 and to recite that a shadow-based shutdown can be implemented by way of an input/display device 32. No new matter has been added.

Section 112 Rejection

The Examiner rejected claim 10 as indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant has amended claim 10 and respectfully submits the changes to claim 10 overcome the § 112 rejection.

U.S. Patent No. 7,245,039 to DuHamel Does Not Qualify as Prior Art

Applicant respectfully submits that DuHamel, U.S. Patent No. 7,245,039, has an earliest priority date of December 10, 2004. The present application claims earlier priority from a PCT application, PCT/EP2004/003394, filed on March 31, 2004 and from German Application No. 103 18 695.6, filed on April 24, 2003. An accurate English translation of the priority PCT application, as well as a statement that the translation of the certified copy of the priority PCT application is true and correct, was filed on October 18, 2005 and acknowledged as received in the Office Action dated October 10, 2008. The present claims are fully enabled and have technical support in the priority PCT application. As a result, the claim of priority to the PCT application, filed March 31, 2004, has been perfected. Accordingly, DuHamel was not filed before the effective filing date of the claimed invention and does not qualify as prior art under § 103(a), and the rejections based on DuHamel are improper.

Claim Rejections

Applicant's wind power installation, in some embodiments, includes three sensors uniformly spaced around a wind power installation. Figure 2 shows three sensors 16 positioned around a pylon 10. As discussed on page 5, lines 6-10 in the substitute specification:

> With three sensors, there is thus a spacing of 120° between the respective sensors if they are arranged on a notional circle around the wind power installation. When using three sensors, one is always subjected to direct light incidence and at least one further sensor is arranged in a shadowed region. It is therefore always possible to ascertain the difference in light intensity.

The references cited by the Examiner fail to recognize the advantageous of using three sensors, let alone spacing sensors around a wind installation to ensure one sensor is subjected to direct light. Differences between Applicant's claimed embodiments and the cited references are discussed below.

Independent claim 1 was rejected over the combination of the '111 patent and Brinkmann. Claim 1 recites, among other things, detecting a first light intensity in a region of direct light irradiation using one of at least three light sensors. The Examiner states that the '111 patent fails to disclose a plurality of sensors. For this feature, the Examiner is relying on Brinkmann, and in particular sensors 23, 24 of Brinkmann. See Office Action, page 4. In contrast to Applicant's claim 1, Brinkmann discloses using only two sensors 23, 24. See Figures 2 and 4. Claim 1 further recites that the at least three light sensors are substantially uniformly spaced apart from one another about a pylon. In contrast, Figure 4 of Brinkmann shows a sensor surface 2a separated from a mast 9a. See also Figure 2. Brinkmann simply fails to disclose at least three light sensors, much less at least three light sensors that are spaced apart from one another about a pylon. Consequently, Applicant respectfully submits that claim 1 is patentable over the combination of the '111 patent and Brinkmann.

Dependent claims 2-5 are allowable for the features recited therein as well as for the reasons why claim 1 is allowable.

Independent claim 6 was rejected over the combination of the '111 patent and Brinkmann. Claim 6 recites, among other things, first means for detecting light intensity in a first region, second means for detecting light intensity in a second region that is less illuminated relative to the first region, and third means for detecting light intensity in a third region. In contrast, Brinkmann discloses using two sensors 23, 24. See Figures 2 and 4. Moreover, the two adjacent sensors 23, 24 of Brinkmann receive different amounts of light because of the differences between a transparent housing 25 of the sensor 23 and a housing 26 with an opaque marking 29 of the sensor 24. The difference in the electrical signals output by the sensors 23, 24 is indicative of the level of shade. Brinkmann simply fails to disclose detecting light at a first region, a second region, and third region, let alone that shutdown of a wind power installation is adapted to take place based at least in part on a comparison between detected light intensities at

different regions. Consequently, Applicant respectfully submits that claim 6 is patentable over the combination of the '111 patent and Brinkmann.

Dependent claims 7-11 are allowable for the features recited therein as well as for the reasons why claim 6 is allowable. Applicant notes that DuHamel fails to qualify as prior art under § 103(a). Applicant further notes that Ericksson fails to disclose the deficiencies of the '111 patent and Brinkmann and respectfully submits that dependent claims 7-11 are in condition for allowance.

Independent claim 12 recites, among other things, that the wind power installation is coupled to at least three light sensors which are arranged uniformly spaced around the wind power installation and through which respectively current intensity of light and shadow or intensity of light and shadow ascertained over a certain time is measured. The Examiner states that the '111 patent does not disclose a plurality of sensors. See Office Action, page 4. The Examiner relies on Brinkmann, and in particular sensors 23, 24 of Brinkmann. See Office Action, page 4. In contrast to Applicant's claim 12, Brinkmann merely discloses using two sensors, which are separated from the mast 9a. See Figures 2 and 4. Claim 12 further recites that the data determined by the light sensors are processed by the data processing apparatus and shutdown of the wind power installation is effected if a difference between light and shadow is above a predetermined value when a predetermined position of the sun is assumed. Brinkmann relies on different types of housings for sensors evaluating shade, not differences between light and shadow. The Brinckman sensor 24 is contained in the housing 26 having the opaque marking 29 such that the sensor 24 receives less light than the adjacent sensor 23. Brinkmann simply fails to disclose a shutdown of a wind power installation based on a difference between light and shadow, much less shutdown of a wind power installation if a difference between light and shadow is above a predetermined value when a predetermined position of the sun is assumed. Applicant respectfully submits that claim 12 is patentable over the combination of the '111 patent and Brinkmann.

Independent claim 13 recites, among other things, a plurality of spaced apart detectors to detect light intensity at different regions, and the plurality of detectors includes a first detector to detect a first light intensity in a first region and a second detector to detect a second light intensity in a second region. The Examiner states that the '111 patent fails to

disclose a plurality of sensors. For this feature, the Examiner is relying on Brinkmann, and in particular sensors 23, 24 of Brinkmann. See Office Action, page 4. In contrast to Applicant's claim 13, Brinkmann merely discloses using two sensors 23, 24. Consequently, Applicant respectfully submits that claim 13 is patentable over the combination of the '111 patent and Brinkmann.

Dependent claims 14-16 are allowable for the features recited therein as well as for the reasons why claim 13 is allowable.

New Claims

Claims 17-26 have been added. These claims are fully supported by the application as filed and are allowable as depending from allowable base claims, as well as for novel and non-obvious combinations of elements recited therein. The cited references fail to disclose or suggest, alone or in combination, these claimed features. Consideration of new claims 17-26 is respectfully requested.

Conclusion

Any remarks in support of patentability of one claim should not be imputed to any other claim, even if similar terminology is used. Any remarks referring to only a portion of a claim should not be understood to base patentability on solely that portion; rather, patentability must rest on each claim taken as a whole. Applicant does not acquiesce to the Examiner's rejections and each of the Examiner's assertions regarding what the cited references show, teach, or suggest, even if not expressly discussed herein. Applicant has not presented arguments concerning whether the applied references can be properly combined in view of the clearly missing elements noted above, and Applicant reserves the right to later contest whether a proper motivation and suggestion exists to combine these references. Any discussion of embodiments disclosed in the application does not define the scope or interpretation of any of the claims. Instead, such discussion is to help the Examiner appreciate the important distinctions between disclosed embodiments and traditional wind systems. Applicant does not acquiesce to each of the Examiner's rejections and each of the Examiner's assertions regarding what the cited references show or teach, even if not expressly discussed herein. Although changes to the claims

have been made, no acquiescence or estoppel is or should be implied thereby; such amendments are made only to expedite prosecution of the present application and are without prejudice to the presentation or assertion, in the future, of claims relating to the same or similar subject matter.

In view of the foregoing, Applicant respectfully submits that all of the claims in this application are now in condition for allowance. In the event the Examiner disagrees or finds minor informalities that can be resolved by telephone conference, the Examiner is urged to contact Applicant's undersigned representative by telephone at (206) 622-4900 in order to expeditiously resolve prosecution of this application. Consequently, early and favorable action allowing these claims and passing this case to issuance is respectfully solicited.

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

Respectfully submitted,

SEED Intellectual Property Law Group PLLC

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KLK:cm

Enclosure:
Four (4) Sheets of Replacement Drawings (Figures 1-4)

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